

SECTION 13 CONDITIONAL USES

13.1 Intent:

The intent of conditional use permits is to provide for specific uses, other than those specifically permitted in each district, which may be appropriate under certain safeguards or conditions.

13.2 Conditional Use Requirements:

No structure or land may be used for any purpose in any district where such use is not a permitted use, unless such use is listed as a conditional use in that district and approval for that use is obtained through the proper procedure.

Conditional use permits shall be granted only by the Springhill Planning and Zoning Commission, when its findings are that:

- a. The use conforms to the objectives of The Springhill Community Plan and the intent of this Ordinance, and
- b. Such use will not adversely affect nearby properties or their occupants, and
- c. Such use meets density, coverage, yard, height, and all other regulations of the district in which it is to be located, unless otherwise provided for in this ordinance, and
- d. Public hearings have been held, after the required legal notices have been given and the public has been given a chance to be heard upon the matter.

13.3 Conditional Use Procedure:

13.3.1 All applications for conditional use permits shall be filed with the Gallatin County Planning Office, accompanied with the appropriate filing fee.

13.3.2 The Springhill Planning and Zoning Commission shall then cause to be made such investigation of facts bearing on the application as will provide necessary information to assure that the action on each application is consistent with the intent and purpose of this Ordinance.

13.3.3 Upon completion of such investigation the Springhill Planning and Zoning Commission shall hold a public hearing to gather needed facts from all interested parties. The Springhill Planning and Zoning Commission may continue such hearing, if need be, to take additional information. Thereafter, the Springhill Planning and Zoning Commission shall either approve or deny the application. A letter shall be sent to the applicant stating either conditions of approval or reasons for denial.

13.3.4 Notice of public hearing for conditional use permits shall be published at least once 15 days prior to the hearing in a newspaper of general circulation. Adjacent property owners shall be notified by certified mail.

13.4 Conditional Approval:

The Springhill Planning and Zoning Commission may make the granting of a conditional use permit subject to reasonable limitations or conditions as it may deem necessary to enhance the appearance of the property, to reduce any adverse effects on nearby property or residences, to preserve the character of the area or to make it more acceptable in other ways. Said conditions may include but not be limited to the following:

- a. Special setbacks, yards, open spaces, and buffers;
- b. Fences and walls;
- c. Lighting;
- d. Regulation of signs;
- e. Regulation of vehicular ingress and egress;
- f. Regulation of time of certain activities;
- g. Landscaping and maintenance thereof;
- h. Time schedule of proposed development;
- i. Regulation of odors, smoke, dust, airborne particles, vibration, glare, heat, and noise;
- j. Requiring dedication of rights-of-way;
- k. Requiring improvements of rights-of-way;
- l. Regulation of placement of uses on the property;

- m. Regulation of height;
- n. Regulation of the nature and extent of the use;
- o. Regulation of the length of time such use may be permitted.

13.5 Security:

The Springhill Planning and Zoning Commission may require guarantees in the form of bonds, cash deposits, and/or other evidences of compliance in order to secure compliance with conditions imposed.

13.6 Expiration:

All conditional use permits issued for definite term shall automatically expire at the end of the term.

13.7 Authorized Use:

For purposes of this ordinance, a conditional use permittee shall not be considered as engaging in the authorized use on the site until the following conditions are satisfied:

- a. Buildings proposed for construction in connection with the proposed use are in the process of actual construction on the site, or
- b. If remodeling proposed for existing buildings in connection with the proposed use has actually been commenced on the site, or
- c. If no construction or remodeling is contemplated, then the permittee must be regularly engaged on the site in performing the services or in selling the goods, materials, or stocks in trade of the use, and has secured all necessary federal, state, and local permits and licenses.

13.8 Revocation or Modification of Conditional Use Permits:

13.8.1 A conditional use permits may be revoked or modified by the Springhill Planning and Zoning Commission.

13.8.2 A permit may be revoked or modified only under the following circumstances:

- a. A substantial change of conditions has occurred from the time that the permit was granted; and

- b. Revocation or modification is necessary to protect the health, safety, and welfare of the area in which the property is located or the residents of the county and to preserve the integrity of existing use patterns in the area in which the property is situated; and
- c. The person holding the permit has not materially changed his position by detrimentally relying on the permit; or
- d. If the person holding the permit has not complied with the conditions of the permit.

13.8.3 The same procedures for the consideration of an application for a conditional use permit shall be used for consideration of modification or revocation.

13.9 Conformance:

No conditional use permit shall be issued unless in conformance with this Ordinance. Permits issued on the basis of plans and specifications approved by the Springhill Planning and Zoning Commission or Zoning Enforcement Agent only authorize the use, arrangement, and construction set forth in the approved plans and applications, and no other use, arrangement or construction. A use, arrangement, or construction at variance with that authorized through the land use permit shall be a violation of this Ordinance.

13.10 Permits: Extensions:

13.10.1 No later than thirty (30) days prior to the expiration of the conditional use permit, the holder thereof may file written application with the Springhill Planning and Zoning Commission requesting an extension of time thereon and setting forth the reasons for such request. Each application shall be accompanied by the appropriate fee.

- 13.10.2 Within five (5) days from receipt of such application for extension, the Springhill Planning and Zoning Commission shall send a notice of such application by mail to persons, or their successors in interest of record in the County Clerk and Recorder's office, who received mailed notice of the original application. Attached to the application shall be a notice that any person objecting to the extension shall, within fifteen (15) calendar days from the date of posting, notify the granting authority of the objection.
- 13.10.3 If any objection is received from those notified, the procedures under Section 13.3 shall be followed.
- 13.10.4 If no objection is received, the Springhill Planning and Zoning Commission may extend the permit for a period equivalent to the original period for which granted, or for one (1) year, whichever is shorter.
- 13.10.5 An extension may only be granted upon finding of fact by the Springhill Planning and Zoning Commission that no change of condition or circumstances would have been grounds for denying the original application.
- 13.10.6 The Springhill Planning and Zoning Commission shall consider requests for extension only once at the end of the approval period. The decision of the Springhill Planning and Zoning Commission shall be final. No further requests for an extension on a project having already requested an extension shall be allowed.

SECTION 14 VARIANCES

14.1 Authorization to Grant or Deny Variances:

The Springhill Planning and Zoning Commission may authorize a variance from the requirements of this ordinance when it can be shown that because of special and unusual circumstances related to a specific piece of property, strict application of the ordinance would cause an undue or unnecessary hardship. No variance shall be granted to allow the use or development of property for a purpose not authorized within the district in which the proposed development would be located. In granting a variance, the Springhill Planning and Zoning Commission may attach conditions it finds necessary to achieve compliance with the criteria of Section 13.2.

14.2 Criteria For Granting a Variance:

A variance may be granted only upon finding compliance with all of the following criteria.

14.2.1 Exceptional or extraordinary circumstances apply to the property that do not apply generally to other properties in the same district or vicinity and that result from lot size or shape, topography, or other circumstances over which the owners of property have had no control since enactment of this ordinance.

14.2.2 The variance is necessary for the preservation of a property right of the applicant that is substantially the same as that possessed by owners of other property in the same district.

14.2.3 The variance would not be materially detrimental to property in the same district or vicinity in which the property is located.

14.2.4 The variance requested is the minimum variance that would alleviate the hardship.

14.3 Procedure:

Written applications for variance shall be filed with the Gallatin County Planning Department. The appropriate fee shall accompany each application. An application shall not be regarded as having been filed until said fee is paid.

The Springhill Planning and Zoning Commission shall cause to be made such investigation of facts bearing on the application as will provide necessary information to assure that the action on each such application is consistent with the intent and purpose of this Ordinance.

14.4 Hearing and Notice:

There shall be a hearing for each application. Testimony shall be taken by the Springhill Planning and Zoning Commission from persons interested in the application and from the Zoning Enforcement Agent.

Notice of hearing shall be published once in a newspaper of general circulation within the county at least fifteen (15) days prior to the hearing date. In addition, the Planning Office shall send a certified letter to record owners of property adjoining a proposed variance.

14.5 Approval:

In approving an application for a variance, the Springhill Planning and Zoning Commission may designate any conditions that will secure protection for the public health, safety, and general welfare and shall find the request to meet the criteria set forth in Section 14.2. Any approval under this section shall be subject to any terms and conditions required by the Springhill Planning and Zoning Commission.

14.6 Revocation and Modification of Variance:

A variance may be revoked or modified under the same circumstances and procedures specified for the revocation or modification of a conditional use permit in Section 13.8.

SECTION 15 LAND USE PERMITS

15.1 Procedures for Obtaining Land Use Permits:

- 15.1.1 No structure shall be built, moved or structurally altered until a land use permit has been issued under this Section.
- 15.1.2 Land use permits shall be issued only for uses in conformance with this Ordinance and the conditions and terms of a conditional use permit. No land use permit shall be issued until time for appeal on a conditional use permit or variance has elapsed and all appeals are finally decided.
- 15.1.3 Land use permits shall be in writing and shall be in the form specified by the Springhill Planning and Zoning Commission.
- 15.1.4 An application for a land use permit shall be filed with the Zoning Enforcement Agent. Land use permits may be issued by the Zoning Enforcement Agent.
- 15.1.5 If an application for a land use permit is denied by the Zoning Enforcement Agent, the applicant may apply for a variance or appeal to the Springhill Planning and Zoning Commission.
- 15.1.6 Where new sanitary facilities or the extension of the existing sanitary facilities are contemplated a land use permit shall not be issued until the applicant has first obtained a sewer permit from the County Health Department or approval of sanitary facilities from the Montana Department of Health and Environmental Sciences, whichever is appropriate.
- 15.1.7 A land use permit is required for agricultural structures in the Agricultural and Rural Residential District (AR), for the purpose of enforcing property line setbacks.

15.2 Certificate of Compliance:

A certificate of compliance shall be issued by the Zoning Enforcement Agent before any development is occupied. A certificate of compliance indicates that an on-site inspection has shown that the development complies with this Ordinance, including any conditions imposed upon the development. Occupancy of a development without a certificate of compliance shall be a violation of this Ordinance.

15.3 Conformance:

No land use permit shall be issued unless in conformance with this Ordinance. Permits issued on the basis of plans and specifications approved by the Zoning Enforcement Agent only authorize the use, arrangement, and construction set forth in the approved plans and applications and no other use, arrangement, or construction. A use, arrangement, or construction at variance with that authorized shall be deemed a violation of this Ordinance.

15.4 Expiration of Permits:

15.4.1 A land use permit shall expire eighteen (18) months from the date of issuance.

15.4.2 A land use permit shall expire if the building or work authorized by the permit has not commenced within eighteen (18) months from the date of the issuance of the permit or if the building or work authorized by the permit is suspended or abandoned at any time after the work is commenced for a period of 180 days.

15.4.3 After a land use permit has expired no work can be recommenced until a new permit is obtained. The fee for a new permit shall be one-half (1/2) of the amount required for the original permit, provided that no changes have been made or will be made in the original plans and specifications for the work and that abandonment has not exceeded one year.

15.4.5 All exterior construction shall be completed within eighteen (18) months of the date of issuance of the land use permit.

SECTION 16 ADMINISTRATION

16.1 Employees and Officers:

16.1.1 The Springhill Planning and Zoning Commission is authorized to appoint and hire employees and officers, including a Zoning Enforcement Agent, as is necessary to administer and enforce this Ordinance.

16.1.2 The Zoning Enforcement Agent may be an employee of Gallatin County, and if so, shall perform the duties under this Ordinance without remuneration in excess of the county salary.

16.2 Duties of the Zoning Enforcement Agent:

16.2.1 The Zoning Enforcement Agent shall issue all land use permits and review all applications for conditional use permits, variances, rezoning requests and amendments to this Ordinance.

16.2.2 If the Zoning Enforcement Agent finds that this Ordinance, permit, or condition is being violated, the Agent shall give written notice to the person responsible for the violation, indicating the nature of the violation and requesting the remedial action to be taken to correct or abate the violation.

16.2.3 If the Zoning Enforcement Agent finds a violation the Agent may request the discontinuance of the illegal use of land, buildings, or structures; removal of illegal buildings, structures or additions, alterations, or structural changes; or discontinuance of any illegal work being done.

16.2.4 The Zoning Enforcement Agent may take any other action authorized by this Ordinance to enforce the provisions of this Ordinance or prevent the violation of its provisions.

16.3 Appeals from Decisions of Zoning Enforcement Agent:

16.3.1 An appeal from a decision of the Zoning Enforcement Agent may be made to the Springhill Planning and Zoning Commission.

16.3.2 An appeal shall be in writing and shall be filed with the Gallatin County Planning Office within ten (10) working days after the decision which is appealed.

- 16.3.3 A public hearing will be held on an appeal by the Springhill Planning and Zoning Commission if the matter appealed was required by this Ordinance to be decided after holding a public hearing.

SECTION 17 FEES, CHARGES AND EXPENSES

- 17.1 Fees - All applications for permits, zone changes, conditional uses, or variances shall be accompanied by the applicable fees, which shall be established by the Planning and Zoning Commission by resolution after public notice and hearing.
- 17.2 Fees, charges, and expenses are not refundable.

SECTION 18 COMPLAINTS AND INVESTIGATIONS

- 18.1 Any person may file a written complaint with the Springhill Planning and Zoning Commission or the Zoning Enforcement Agent alleging a violation of this Ordinance.
- 18.2 Upon receipt of a complaint, or upon its own initiative the Zoning Enforcement Agent shall record the complaint, immediately investigate, and take whatever action the Agent considers appropriate.

SECTION 19 ENFORCEMENT AND PENALTIES

- 19.1 Criminal Penalty:

A violation of this Ordinance, a permit issued under this Ordinance, any condition imposed through the authority of this Ordinance, or any variance granted through this Ordinance shall constitute a misdemeanor. A person convicted of a violation under this Section shall be fined not more than \$500.00 or imprisoned in the county jail for a term not to exceed six (6) months, or both. Each day of violation shall constitute a separate offense and punishable as such.

19.2 Injunction:

Upon order of the Springhill Planning and Zoning Commission the Zoning Enforcement Agent, with the assistance of the County Attorney, may bring an action to enjoin violations of this Ordinance.

SECTION 20 MINIMUM REQUIREMENTS

- 20.1 In the interpretation and application of this Ordinance, the provisions of the Ordinance shall be held to the minimum requirements adopted for the promotion of the health, safety and general welfare of the zoning district.
- 20.2 Wherever the requirements of this Ordinance are at variance with the requirements of any other lawfully adopted rule or regulation, the most restrictive, or that imposing the higher standards, shall govern.

SECTION 21 AMENDMENTS AND CHANGES

- 21.1 This ordinance may be amended whenever the public necessity and convenience and general welfare require such amendment, according to the procedure prescribed by law, and this Ordinance.
- 21.2 An amendment may be initiated as follows:
- a. A land owner(s) of property effected by the proposed amendment may file a petition with the Zoning Enforcement Agent requesting an amendment. The petition shall be signed by the petitioning land owner(s).
 - b. The Gallatin County Commission or the Springhill Planning and Zoning Commission may initiate an amendment through a resolution of intention.
- 21.3 An amendment shall not become effective until a hearing is held before the Springhill Planning and Zoning Commission. Notice of the hearing shall be posted in at least three (3) public places within the area affected and given in a newspaper of general circulation in the County not less than fifteen (15) days prior to the date of hearing.

SECTION 22 INVALIDATION

If any Section or part of this Ordinance or any attachments or amendments hereto is for any reason held to be invalid, the remaining portions of this Ordinance shall be valid and effective.

SECTION 23 ADOPTION

This Ordinance was adopted on July 20, 1992.

DATED THIS 20 th day of July, 1992.

SPRINGHILL PLANNING AND ZONING COMMISSION

A. D. Pruitt, Chairperson

Jane Jelinski, Member

ABSENT

Arletta Derleth, Member

Deb Berglund, Member

Shelly Cheney, Member